

**§ 37.6 Compliance with core principles.**

(a) *In general.* To maintain registration as a derivatives transaction execution facility upon commencing operations by listing products for trading or otherwise and on a continuing basis thereafter, the derivatives transaction execution facility must have the capacity to be, and be, in compliance with the core principles of section 5a(d) of the Act.

(b) *New derivatives transaction execution facilities.* (1) *Certification of compliance.* Unless an applicant for registration has chosen to make a voluntary demonstration under paragraph (b)(2) of this section, a newly registered derivatives transaction execution facility at the time it commences operations must certify to the Commission that it has the capacity to, and will, operate in compliance with the core principles under section 5a(d) of the Act.

(2) *Voluntary demonstration of compliance.* An applicant for registration may choose to make a voluntary demonstration of its capacity to operate in compliance with the core principles as follows:

(i) At least thirty days prior to commencing operations, the applicant for registration must file with the Secretary of the Commission at its Washington, DC headquarters, either separately or with the application required by § 37.4, a submission that includes:

(A) The label, "Demonstration of Compliance with Core Principles for Operation";

(B) The derivatives transaction execution facility's rules, which may be trading protocols, that enable or empower the facility to comply with the core principles;

(C) Any agreements entered into or to be entered into between or among the facility, its operator or its participants that enable or empower the facility to comply with the core principles, including where applicable, technical manuals and other guides or instructions for users of the facility; and

(D) To the extent that capacity to comply with a core principle is not self-evident, a brief explanation of how the facility has the capacity to meet the core principle.

(ii) Unless the applicant requests an extension of time, the applicant shall

be deemed to have demonstrated its capacity to comply with the core principles thirty days after receipt by the Commission, unless notified otherwise.

(iii) If it appears that the applicant has failed to make the requisite showing, the Commission will so notify the applicant at the end of that period. Upon commencement of operations by the derivatives transaction execution facility, such a notice may be considered by the Commission in a determination to issue a notice of violation of core principles under section 5c(d) of the Act.

(c) *Existing derivatives transaction execution facilities.* Upon request by the Commission, a registered derivatives transaction execution facility shall file with the Commission such data, documents and other information as the Commission may specify in its request that demonstrates that the registered derivatives transaction execution facility is in compliance with one or more core principles as specified in the request or that is requested by the Commission to enable the Commission to satisfy its obligations under the Act.

(d) *Guidance regarding compliance with core principles.* A derivatives transaction execution facility may meet the following core principles of section 5a(d) of the Act as specified in this paragraph:

(1) *Compliance with rules.* The core principle regarding compliance with rules under section 5a(d)(2) of the Act may be met, as appropriate to the facility, through the effective monitoring of limitations on access to the facility;

(2) *Monitoring of trading.* The core principle regarding monitoring of trading under section 5a(d)(3) of the Act may be met, as appropriate to the market and the products traded thereon, by providing information to the Commission as requested to satisfy the Commission's obligations under the Act;

(3) *Disclosure of general information.* The core principle regarding disclosure of general information relevant to participation in trading on the facility under section 5a(d)(4)(D) of the Act also includes providing to market participants on a fair, equitable and timely

basis information regarding, as appropriate to the market, prices, bids and offers, and such other information that the Commission may determine by rule, regulation or order, after notice and an opportunity for a hearing through submission of written data, views and arguments;

(4) *Daily publication of trading information.* The Commission will determine by order, after notice and an opportunity for a hearing through submission of written data, views and arguments, whether the requirement of the core principle on publication of trading information under section 5a(d)(5) of the Act applies to a particular product or products traded on a facility;

(5) *Fitness.* Appropriate minimum standards for participants having direct access to the facility under the core principle on fitness pursuant to section 5a(d)(6) of the Act also includes natural persons that directly or indirectly have greater than a ten percent ownership interest in the facility; and

(6) *In general.* Appendix B to this part provides guidance to registered derivatives transaction execution facilities on how the core principles under section 5a(d) of the Act could be satisfied.

### § 37.7 Additional requirements.

(a) *Products.* Notwithstanding the provisions of section 5c(c) of the Act and § 40.2 of this chapter, derivatives transaction execution facilities need only notify the Commission of the listing of new products for trading, posting of new product descriptions, terms and conditions or trading protocols or providing for a new system product functionality, by filing with the Secretary of the Commission at its Washington, D.C. headquarters, a submission labeled “DTF Notice of Product Listing” that includes the text of the product’s terms or conditions, product description, trading protocol or description of the system functionality or by electronic notification of the foregoing at the time traders or participants in the market are notified, but in no event later than the close of business on the business day preceding initial listing, posting or implementation of the trading protocol or system functionality.

(b) *Material modifications.* Notwithstanding the provisions of section 5c(c) of the Act, registered derivatives transaction execution facilities need not certify rules or rule amendments under § 40.6 of this chapter, and must only notify the Commission prior to placing into effect or amending such a rule, which includes trading protocols, by:

(1) Filing with the Secretary of the Commission at its Washington, D.C. headquarters at the time traders or participants in the market are notified, but (unless taken as an emergency action) in no event later than the close of business on the business day preceding implementation of the rule, a submission labeled, “DTF Rule Notice.” The submission shall include the text of the rule or rule amendment (deletions and additions must be indicated); or

(2) By electronic notification to the Commission of the rule to be placed into effect or to be changed, in a format approved by the Secretary of the Commission, at the time traders or participants in the market are notified, but (unless taken as an emergency action) in no event later than the close of business on the business day preceding implementation. *Provided, however,* the derivatives transaction execution facility need not notify the Commission of rules or rule amendments for which no certification is required under § 40.6(c) of this chapter.

(3) The derivatives transaction execution facility must maintain documentation regarding all changes to rules, terms and conditions or trading protocols.

(c) *Voluntary request for Commission approval of rules or products.* (1) A board of trade or trading facility seeking to be registered as, or registered as, a derivatives transaction execution facility, may request that the Commission approve under section 5c(c) of the Act, any or all of its rules and subsequent amendments thereto, including both operational rules and the terms or conditions of products listed for trading on the facility, prior to their implementation or, notwithstanding the provisions of section 5c(c)(2) of the Act, at any time thereafter, under the procedures of §§ 40.5 or 40.3 of this chapter, as applicable. A derivatives transaction execution facility may label a product in